

WHEREAS, the tentative resolution of such points is embodied in a document attached hereto as Exhibit A;

WHEREAS, DSWA has agreed to file an application for an amended permit requesting that the terms agreed upon in Exhibit A be incorporated into an amended permit, with COW to remain as a co-permittee;

WHEREAS, DNREC has agreed, upon receipt of a complete application, to initiate the public participation process to afford an opportunity for the public to comment on the agreed upon revisions to the permit before an amended permit is issued.

WHEREAS, DNREC has not at this time been provided sufficient evidence to support the removal of COW as a co-permittee.

IT IS THEREFORE AGREED AS FOLLOWS:

1. DSWA shall promptly file an application for an amended permit which includes changes to the existing permit, as reflected in Exhibit A. After soliciting input or comment from COW, DSWA shall file the application, whether or not COW also signs the application.

2. Upon receipt of the application and a determination that it is complete, DNREC promptly shall initiate and conclude the public participation process.

3. Upon completion of the public participation process, and if the Secretary finds that issuance of the permit is warranted, DNREC shall issue an amended permit which takes into consideration any public comment.

4. DSWA and DNREC (the Parties) agree to be bound by the terms of this stipulation upon its execution on behalf of both Parties. The Parties shall then promptly request a stay of this matter until DNREC issues the amended permit or either Party requests a hearing. After the amended permit is issued, DSWA shall promptly request the Board dismiss this case,

and the amended permit shall be subject to a separate appeal by DSWA and any other party who has legal standing to appeal the permit.

11-20-09

Jeremy W. Homer
JEREMY W. HOMER, ESQUIRE for
Delaware Solid Waste Authority

11/20/09

Robert F. Phillips
ROBERT F. PHILLIPS, ESQUIRE for
Delaware Department of Natural Resources
and Environmental Control



EXHIBIT A



DELAWARE SOLID WASTE AUTHORITY

AmG

Pasquale S. Canzano, P.E., BCEE
Chief Executive Officer

Richard P. Watson, P.E., BCEE
Chief Operating Officer

Board of Directors

Richard V. Pryor
Chairman
Ronald G. McCabe
Vice Chairman
Theodore W. Ryan
William J. DiMondi
Timothy P. Sheldon
Tonda L. Parks
Gerard L. Esposito

May 20, 2009

Nancy Marker
Department of Natural Resources
And Environmental Control
Solid Waste Branch
89 Kings Hwy
Dover, DE 19901

Dear Ms. Marker:

RE: Pigeon Point Landfill (PPLF) Post Closure Care Permit –Completed Resolution Table,
Response Letter to DNREC Letter Dated May 8, 2009

This letter is in response to your letter dated May 8, 2009 confirming and clarifying the agreements discussed in the completed resolution table (attached). DSWA acknowledges the following:

- a. A permit modification application shall be submitted in accordance with section 4.1.7 of the Delaware Regulations Governing Solid Waste, which will be signed by both Permittees.
- b. All requests to change “DSWA” to “Permittees” or the addition of the word “Permittees” will be submitted via a permit modification.
- c. The proposed language for item 17 regarding stripping and covering areas in preparation for placement of stabilized sludge material is agreed upon.
- d. A drawing was provided showing the fenced area at the Pigeon Point Landfill in the original permit application dated April 2006, under Exhibit 2, Access Control. Landfill gas migration monitoring will take place in the adjacent buildings to the landfill in accordance with the monitoring plan submitted in the original permit application dated April 2006, under Appendix 10, Exhibit 13, Attachment 2.
- e. DNREC will not remove stormwater controls from the post closure care permit number II.G. DNREC will not revise the permit language for permit number II.G. per DSWA’s suggestion, however, will add the language “During the cap enhancement project”.

1128 S. Bradford Street, P.O. Box 455, Dover, Delaware 19903-0455
Phone: (302) 739-5361 Fax: (302) 739-4287

CITIZENS' RESPONSE LINE: 1-800-404-7080 www.dswa.com

- f. All requests to reduce inspections (i.e. Leachate Control System, Item 47) will be accompanied by a description of how the reduced inspection frequency will be adequate.
- g. DNREC currently agrees to the draft Environmental Covenant language. Should conditions change at the end of the post closure care period and DNREC deems it necessary to revise the current language DSWA agrees to discuss any proposed changes.

DSWA is in agreement with the resolution of these issues as stated above. DSWA is in agreement that a formal motion will be made to withdraw the appeal from the Environmental Appeals Board. DSWA anticipates submitting a permit modification application by June 30, 2009.

Yours Truly,



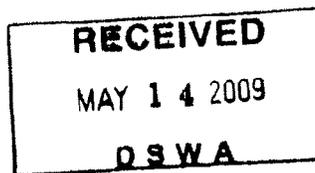
Lynsey B. Kocenko
Project Manager

Attachment

- c: P. S. Canzano, P.E., BCEE
R. P. Watson, P.E., BCEE
A. M. Germain, P.E., BCEE
L. V. Miller, P.E., BCEE
R. M. Roddy, P.E., BCEE
A. D. Marconi, P.E.
D. A. Fluman
S. C. Kauffman
W.W. Pleasanton
J. E. Haley
Jeremy Homer, Esq. (PG&S)
Bryan Ashby (DNREC)
Bob Hartman (DNREC)
Ting Guo (DNREC)
Frank Gavas (DNREC)
Robert Phillips (DAG)
Kash Srinivasan (COW)

ceb/lbk/dnrec/pplfpostclosurepermit/5-20-09responsetodnrec5-8letter

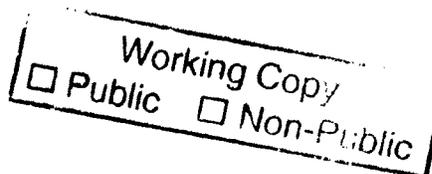
STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
& ENVIRONMENTAL CONTROL
DIVISION OF AIR & WASTE MANAGEMENT
89 KINGS HIGHWAY
DOVER, DELAWARE 19901



SOLID & HAZARDOUS WASTE
MANAGEMENT BRANCH
TELEPHONE: (302) 739-9444
FAX No.: (302) 739-5060

May 8, 2009

Ms Lynsey Kocenko
Project Manager
Delaware Solid Waste Authority
1128 S. Bradford Street
P.O. Box 455
Dover, Delaware 19903-0455



Subject: Pigeon Point Landfill Post-Closure Care Permit – Completed Resolution Table
Reference: DSWA Letter Dated 4/28/09 and the Facility Permit (SW-08/01)

Dear Ms Kocenko:

The purpose of this letter is to confirm and clarify the agreements discussed in the table attached to the DSWA letter dated April 28, 2009. The Solid & Hazardous Waste Management Branch has agreed to resolve the 72 items listed in the DSWA's table of permit concerns chiefly via clarifying language and a strong commitment to work towards practical permit modifications upon formal request by the Permittees. It is important to note that there have been no compromises when it comes to the permit's conditions regarding protection of health and the environment. The following clarifications are provided for your use and to better reflect our understanding of the resolutions agreed upon by DSWA and the SHWMB.

- a. Regarding all of the items in the table where DSWA has agreed to pursue a permit modification to change the language, please recognize that both Permittees must agree on the particulars of such a modification and that both must sign the request. Please also recognize that the permit modification must be submitted and processed in accordance with the requirements of Section 4.1.7 of the Delaware Regulations Governing Solid Waste (DRGSW).
- b. With the exception of correction of the typo in condition IV.F.3.e of the permit, the DSWA's requests to change "DSWA" to "Permittees" must be submitted via the permit modification process as agreed.
- c. The SHWMB is willing to change the language for item 17 regarding stripping and covering areas in preparation for placement of stabilized sludge material; however, both Permittees must agree to the proposed language.

Delaware's good nature depends on you!

Lynsey Kocenko

May 6, 2009

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- d. Recognize that DSWA has not yet provided a drawing showing the fenced area at the Pigeon Point Landfill. Please also understand that we expect the Permittees to monitor buildings adjacent to the landfill for gas migration in accordance with a gas monitoring plan until that time that the Permittees can demonstrate that gas is not intruding into these structures.
- e. The SHWMB has been very clear that the post-closure care permit must include provisions for stormwater management and that the intent of the permit is not to double regulate the Permittees. The Branch acknowledges that sediment and stormwater controls will be regulated under the Sediment and Stormwater Plan Approval 2001-006, Rev 4 during the Cap Enhancement Project; however, we will not remove stormwater controls from the Post-closure care permit and do not agree with the specific language cited by the DSWA for the resolution of item 34. We will clarify condition II.G of the permit by adding the DSWA suggested language prefaced by "During the Cap Enhancement Project".
- f. For permit modification requests to reduce inspections (i.e. Leachate Control System, item 47), please recognize that as part of the permit modification process, Permittees must describe how the reduced inspection frequency will be adequate.
- g. In item 50 (permit condition II.O.3), the SHWMB has agreed to replace a portion of this permit condition with the performance standard suggested by the DSWA; however, the use of the term "Permittees" will still need to be submitted as part of a permit modification request.
- h. We have attached the DSWA's draft Environmental Covenant to this letter and the SHWMB certifies our agreement with the proposed language. While we agree with the draft language, there could be further modifications required to transition the Pigeon Point Landfill from the post-closure care period into custodial care. Such a transition must consider all owners, including the City of Wilmington and (currently) the Delaware River and Bay Authority. The SHWMB cannot guarantee today that other conditions such as maintenance or other plans (reference the DNREC Generic Environmental Covenant provided to you on April 9, 2009) will not be required as part of the Environmental Covenant once the post-closure care period ends. We can assure you that such plans, if ever deemed necessary, would be used only as a mechanism to provide for the custodial care needed to protect the public health and the environment and that such modifications would contain language agreeable to all parties, including the City of Wilmington. As discussed, we would not be willing to remove the requirement for the Environmental Covenant from the permit at this time. Recognize too that the DSWA has yet to provide a drawing showing the "fenced area" referenced by the draft covenant.

Lynsey Kocenko
May 6, 2009
Page 3

If DSWA is in agreement with the resolution of these issues DNREC would expect the formal removal of the appeal from the Environmental Appeals Board. In addition, DNREC requests a time frame as to when to expect the permit modification which will seek to permanently resolve these issues. If you have any questions concerning this letter, please contact Mr. Hartman at (302) 739-9403.

Sincerely,



Nancy C. Marker
Environmental Program Manager II
Solid & Hazardous Waste Management Branch

NCM: RH:dtd
DSWA\Pigeon Point\General Correspondence\RH09011

enclosure

cc: Bryan Ashby, Environmental Program Manager I, SHWMB
Ting Guo, Engineer, SHWMB
Frank Gavas, Hydrologist, SHWMB
Robert F. Phillips, DAG
Kash Srinivasan, Commissioner, DPW, City of Wilmington
Anne Germain, Chief Engineer, DSWA
Robin Roddy, Senior Facility Manager, DSWA
Dan Fluman, Manager of Environmental Testing and Monitoring, DSWA

DRAFT ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by the Delaware Solid Waste Authority (DSWA) ("Owner") and the Delaware Department of Natural Resources and Environmental Control ("DNREC") pursuant to 7 Del. C. Chapter 79, Subchapter II, Uniform Environmental Covenants Act, for the purpose of subjecting the Property to the activity and use limitations as set forth herein.

WITNESSETH

WHEREAS, the DSWA is the Owner of certain real estate located at 1101 Lambsons Lane in New Castle County, Delaware, as described below ("Property"); and

WHEREAS, it is intended that certain activity and use limitations be placed on the Property; and

WHEREAS, Owner is willing to establish this Environmental Covenant on the Property.

Now therefore, Owner DSWA and DNREC agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to 7 Del. C. Chapter 79, Subchapter II, Uniform Environmental Covenants Act.
2. Property. This Environmental Covenant applies to the fenced in area on the following New Castle County tax parcel number(s); 1001100033, 1001100039, 1001100040, 1001100041, located at 1101 Lambsons Lane in New Castle County, Delaware, and more particularly described in Exhibit A and Exhibit B [*drawing to show fence line*] attached hereto and hereby incorporated herein by reference ("Property"). Said parcels comprise part of the Pigeon Point Landfill, namely that part owned by DSWA.
3. Owner. DSWA ("Owner"), which is located at 1128 S. Bradford Street, Dover, DE 19904, is the owner of the above identified parcels, which comprise the Property.
4. Holder. DNREC is the Holder of this Environmental Covenant.
5. Activity and Use Limitations. Owner hereby agrees to comply with the following activity and use limitations:
 - [a.] Use Restriction. Use of the Property shall be restricted solely to those non-residential type uses permitted within Commercial, Manufacturing, Industrial Districts or Recreational Uses, respectively, as such district types described and permitted, respectively, pursuant to the New Castle County Code in effect of the date of this Declaration;

January 1, 2016

[b.] Limitation of Groundwater Withdrawal. No potable groundwater wells shall be installed, and no potable groundwater shall be withdrawn from any well, on the Property without the prior written approval of DNREC. There shall be no digging, drilling, excavating, grading, constructing, earth moving, or any other land disturbing activities at depths greater than 2 feet within the footprint of the Property without the prior written approval of DNREC;

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to 7 Del. C. Section 7910(a), subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant.

8. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to 7 Del. C. Section 7916. Failure to timely enforce compliance with this Environmental Covenant or the use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the Secretary of DNREC from exercising any authority under applicable law.

9. Rights of Access. Owner hereby grants to DNREC, its agents, contractors, and employees the right of access to the Property for implementation or enforcement of this Environmental Covenant.

10. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner or a Transferee; and DNREC, pursuant to 7 Del. C. Section 7915 and other applicable law.

11. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

12. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Delaware.

13. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the New Castle County Recorder of Deeds Office. This environmental covenant must be indexed in the grantor's

index in the name of the Owner, and in the grantee's index in the name of the Holder, DNREC.

14. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the New Castle County Recorder of Deeds.

15. Distribution of Environmental Covenant. The Owner shall distribute a file-and date-stamped copy of the recorded Environmental Covenant to: DNREC.

16. Notice. Any document or communication required by this Environmental Covenant shall be submitted to DNREC.

The undersigned representatives of the Owner and certifies that they are authorized to execute this Environmental Covenant.

IT IS SO AGREED:

Delaware Solid Waste Authority

Signature of Owner

Printed Name and Title

Date

State of _____)

County of _____)

ss:

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of _____, who acknowledged to me that he/she did execute the foregoing instrument on behalf of _____.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this _____ day of _____, 2016.

Notary Public

Delaware Department of Natural Resources and Environmental Control

Signature

Printed Name and Title

Date

State of _____)

County of _____)

ss:

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of _____, who acknowledged to me that he/she did execute the foregoing instrument on behalf of _____.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this _____ day of _____, 2016.

Notary Public

January 1, 2016



DELAWARE SOLID WASTE AUTHORITY

April 28, 2009

Pasquale S. Canzano, P.E., BCEE
Chief Executive Officer

Richard P. Watson, P.E., BCEE
Chief Operating Officer

Robert Hartman
Department of Natural Resources
And Environmental Control
Solid Waste Branch
89 Kings Hwy
Dover, DE 19901

Board of Directors
Richard V. Pryor
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Vice Chairman
Theodore W. Ryan
William J. DiMondi
Timothy P. Sheldon
Tonda L. Parks
Gerard L. Esposito

Dear Mr. Hartman:

RE: Pigeon Point Landfill (PPLF) Post Closure Care Permit –Completed Resolution Table

In accordance with the Environmental Appeals Board process both the Delaware Solid Waste Authority (DSWA) and the Department of Natural Resources and Environmental Control (DNREC) have been working closely together to resolve DSWA's concerns to the permit. All the items on the attached list have been agreed upon by both DSWA and DNREC. Please review the list and confirm in writing at your earliest convenience that the list is accurate. DSWA understands that the only item not resolved is the draft Environmental Covenant which DNREC is currently reviewing. DSWA has agreed to discuss any comments DNREC may have regarding this Environmental Covenant.

Thank you for your cooperation in this matter.

Yours Truly,

Lynsey B. Kocenko
Project Manager

Attachment

c: P. S. Canzano, P.E., BCEE
R. P. Watson, P.E., BCEE
A. M. Germain, P.E., BCEE
L. V. Miller, P.E., BCEE
R. M. Roddy, P.E., BCEE
A. D. Marconi, P.E.
D. A. Fluman
S. C. Kauffman
W. W. Pleasanton
J. E. Haley
Jeremy Homer, Esq. (PG&S)
Bryan Ashby (DNREC)
Nancy Marker (DNREC)

Pwr/LBK/completed resolution table letter

1128 S. Bradford Street, P.O. Box 455, Dover, Delaware 19903-0455
Phone: (302) 739-5361 Fax: (302) 739-4287

CITIZENS' RESPONSE LINE: 1-800-404-7080 www.dswa.com

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
1	I.D.4.	<p>Post Closure Care - (I.D.4.) Upon Issuance, Permit SW 08/01 shall remain valid and enforceable throughout the post closure care period of the Landfill. The Delaware Solid Waste Authority began post closure care of the Landfill; however, the Department's regulation of post closure care in accordance with the DRGSW commenced with the issuance of Permit SW-08/01.</p>	<p>DNREC is willing to change the permit language to "Upon Issuance, Permit SW 08/01 shall remain valid and enforceable throughout the remaining portion of the post closure care period, which commenced on January 1, 1986. The post closure care period shall expire in 30 years (on January 1, 2016). At any time after the first five years of the postclosure care period, the Department may reduce the length of the postclosure period or terminate postclosure care if it determines that such care is no longer necessary. Prior to the time that the post closure care period is due to expire, the Department may extend the post closure care period if it determines that the extended period is necessary to protect human health and the environment."</p>
1	VII.A.	<p>Post Closure Care (VII.A.) Duration of Permit: Once issued, this permit shall remain valid and enforceable throughout the post closure care period.</p>	<p>DNREC is willing to change the permit language to "Duration of Permit: Once issued, this permit shall remain valid and enforceable throughout the post closure care period as defined in Section I.D.4. of this permit."</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
2	I.D.3.	UECA (I.D.3) Any transfer of this permit shall be done in compliance with the requirements of Section 4.18 of the Delaware Regulations Governing Solid Waste (DRGSW), including post-closure care financial assurance. Permittees shall not transfer this permit until they have established a valid Environmental Covenant in accordance with the requirements of Delaware Code Title 7, Chapter 79, Subchapter II. Until transfer of the permit has been completed, the Permittees shall continue to maintain control of, and responsibility for the Landfill in compliance with this permit and the DRGSW, including, but not limited to the requirements for financial assurance, post closure care, recordkeeping, reporting, monitoring, and corrective actions. Section 4.1.8.3.1 of the DRGSW (closing a facility prior to permit transfer) shall not apply to the closed Pigeon Point Landfill.	The permit shall reference the Environmental Covenant with language agreed to by DSWA and DNREC. See Attached
2	IV.C.1.	UECA (IV.C.1.) A post closure care narrative addressing status of the site. The narrative shall include pending ownership changes described in Permit Application Supplement 2 as well as the status of the Use Agreement cited in Permit Application Supplement 1. Permittees shall also provide an update as to their progress establishing the Environmental Covenant required by the Secretary's Order 2008-A-0036.	The permit shall reference the Environmental Covenant with language agreed to by DSWA and DNREC. See Attached
2	VII.C.1.	UECA (VII.C.1.) Establish a valid Environmental Covenant pursuant to 7 Del. C. Chapter 79, Subchapter II, Uniform Environmental Covenants Act. The Environmental Covenant must include all property at the Pigeon Point Landfill which has been used for solid waste disposal or which contains landfill monitoring or control systems. This property shall include the parcels cited in condition I.B. of this permit.	The permit shall reference the Environmental Covenant with language agreed to by DSWA and DNREC. See Attached
3	Global Comment	Delaware Regulations Governing Solid Waste	No Change Necessary - Permittees Agree with Permit Language

4/28/2009

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
4	Global Comment	Landfill Gas and Erosion & Sediment	The SW Branch is only interested in landfill gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification. DNREC is willing to change this permit condition. The Permittees suggest the following language "The Permittees shall manage stormwater and maintain controls to ensure the effectiveness of the capping system and prevent run-off of sediments according to the Sediment and Stormwater Plan Approval 2001-006, Rev. 4."
5	I.D.4.	Upon Issuance, Permit SW 08/01 shall remain valid and enforceable throughout the post closure care period of the Landfill. The Delaware Solid Waste Authority began post closure care of the Landfill; however, the Department's regulation of post closure care in accordance with the DRGSW commenced with the issuance of Permit SW-08/01.	All references to "DSWA" should be replaced with "Permittees". DSWA and the City are joint Permittees in this permit. DNREC is willing to change this item during a permit modification.
6	II.D.3.	During the cap enhancement project, DSWA staff shall control access in accordance with condition II.O.3. of this permit.	All references to "DSWA" should be replaced with "Permittees". DSWA and the City are joint Permittees in this permit. DNREC is willing to change this item during a permit modification.

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
7	II.O.2.	<p>Each day that the cap enhancement work is underway, the DSWA shall conduct an inspection to ensure that work meets the requirements of the Camp Dresser & McKee December 1999 <i>Contouring Plan</i>. Weekly, the DSWA shall inspect and document the effectiveness of sediment and erosion controls, particularly silt fences, sediment traps, and stabilization measures; and this inspection shall include an inspection for sediments carried off the Landfill. The DSWA shall document the observations and deficiencies found during these inspections using a form acceptable to the Department and shall correct all deficiencies as needed. The DSWA shall report and maintain records of these inspections in accordance with Sections IV.C.2, IV.C.7 and V.A.6 of this permit.</p>	<p>All references to "DSWA" should be replaced with "Permittees". DSWA and the City are joint Permittees in this permit. DNREC is willing to change this item during a permit modification.</p>
8	II.O.3.	<p>During the Cap Enhancement Project, the Delaware Solid Waste Authority shall control access to the Landfill and shall record all deliveries of materials on a form acceptable to the Department. The DSWA shall not allow the entry of trucks whose loads have not been adequately covered to prevent visible particulate emissions. The DSWA shall report and maintain a record of these deliveries in accordance with Sections IV.C.8, IV.C.9, and V.A.6 of this permit.</p>	<p>All references to "DSWA" should be replaced with "Permittees". DSWA and the City are joint Permittees in this permit. DNREC is willing to change this item during a permit modification.</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
9	II.O.6.	The Delaware Solid Waste Authority shall oversee the Cap Enhancement Project per the Camp Dresser & McKee December 1999 Contouring Plan. Within 60 days after the completion of all construction work for the project, DSWA shall certify whether or not the construction was completed in accordance with that plan and any approved changes or additions. The Cap Enhancement Project will be considered completed only after the Department's Soil & Hazardous Waste Management Branch has accepted the DSWA's certification as complete. The certification shall include:	All references to "DSWA" should be replaced with "Permittees". DSWA and the City are joint Permittees in this permit. DNREC is willing to change this item during a permit modification.
10	IV.F.3.e.	Narrative describing how the incident occurred and the actions taken by the DSWA and other response personnel.	All references to "DSWA" should be replaced with "Permittees". DSWA and the City are joint Permittees in this permit. DNREC is willing to change this item during a permit modification.
11	I.B.	Lands used for solid waste disposal or which contain landfill control systems include the following Tax Parcels (reference Deed Composite and Topographic Overlay, Pigeon Point Landfill, Lambson's Lane Extended, included in Permit Application Supplement 2): 1. 10-011.00-014 2. 10-011.00-033 3. 10-011.00-039 4. 10-011-.00-040 5. 10-011.00-041 6. 10-016.00-004 7. 10-016.00-009	Permittees request the removal of Tax Parcels 10-011.00-033, Tax Parcels 10-011.00-039, Tax Parcels 10-011.00-041, Tax Parcels 10-011.00-040 as they are not part of the PPLF complex. This permit should only reflect the landfill parcels not the parcels that include the Delaware Recycling Center. Further, the permit should limit the landfill to the portions of the parcels that fall within the fenced area of the landfill. DNREC is willing to change this item during a permit modification.

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
12	II.E.	Activities. Unless approved in advance by the Department, or required by this permit, no activity shall be conducted on the Landfill.	DNREC is willing to change the permit language to "Activities. Unless approved in advance by the Department, or required by this permit, no activity shall be conducted on the Landfill. The Permittees may conduct the following activities in compliance with this permit and without further Department approval: grass mowing, seeding, planting, guided tours, surveying, road maintenance, traffic authorized by the Permittees, environmental monitoring, inspections, and maintenance activities that do not disturb the cap or damage landfill control systems. Additional cap maintenance activities that the Permittees may undertake without further Department approval are described in condition II.H.2. of this permit."
13	II.F.	The Permittees shall prevent the accumulation of standing water on the Landfill.	DNREC is willing to change the permit language to "The Permittees shall prevent the accumulation of standing water on the landfill. This prohibition shall not apply to properly maintained erosion and sediment controls specified in the Contouring Plan Addendum and Final Erosion and Sediment Control Plans, dated March 2001."

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
14	II.H.2.b.	<p>Permittees may repair leachate seeps by trenching into the cap if needed, as long as such repairs can be completed over the course of one business day (i.e. between 7:30 a.m. and 3:30 p.m.). In order to complete such repairs, the Permittees must cap the repair with at least 18 inches of clean, compacted soil, covered by 6 inches of clean topsoil and seed to establish vegetation. For the purpose of this permit, clean soil means the natural, unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants, and which can perform as the rooting layer on the landfill cap. Clean soil contains no trash, debris, or solid waste and cannot be from a state or federal cleanup site. Analytical testing of clean soil is not typically required unless its origins are unknown or there is reason to suspect contaminants may be present which may pose an increased risk to human health or the environment.</p> <p>The Permittees shall preserve and maintain all groundwater monitoring wells and leachate observation wells shown in Appendix 10 of the Permit Application, <i>Post Closure Care Plan</i>, Exhibit 12, Attachment 4. The Permittees shall implement controls to protect these monitoring wells from damage from site activities.</p>	<p>DNREC is willing to delete "(i.e. between 7:30 a.m. and 3:30 p.m.)" from the permit condition.</p>
15	II.K.1.		<p>No Change Necessary - Permittees Agree with Permit Language</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
16	II.L.1.	<p>The Permittees shall preserve and maintain the geotechnical monitoring system consisting of IC-05-01, IC-05-02, and LOW-05-001 as shown in Appendix 10 of the Permit Application, <i>Post Closure Care Plan</i>, Exhibit 12, Attachment 3. The Permittees shall implement controls to protect the monitoring systems from damage from site activities.</p>	<p>No Change Necessary - Permittees Agree with Permit Language</p>
17	II.O.1.a.	<p>The Permittees may remove the topsoil (e.g. the top six inches of soil on the existing cap) in each phase area prior to the addition of fill for cap enhancement; however, Permittees must replace that removed layer with clean fill or stabilized sludge within 48 hours of its removal. The Permittees shall ensure that in-place waste remains covered with a minimum of 12 inches of fill at all times.</p> <p>The Permittees shall ensure that all monitoring wells, observation wells, geotechnical monitoring devices and gas system components are clearly marked and protected during the project.</p>	<p>DNREC is willing to change the permit language to "The Permittees may remove the topsoil (the top six inches of soil on the existing cap) in each phase area prior to the addition of fill for cap enhancement; however, Permittees shall ensure that in-place waste remains adequately covered in order to control odors, disease vector breeding, animal attraction, blowing litter, scavenging, fires and to prevent leachate from entering storm water management systems or surface waters."</p>
18	II.O.1.b.		<p>No Change Necessary - Permittees Agree with Permit Language</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
19	II.O.1.d.	<p>The Permittees shall install a final cover (the cap) over each phase area after fill placement. The cap shall consist of a 6-inch vegetative layer underlain by a 18-inch rooting layer consisting of common fill. The Department may consider approval of alternative cap materials if the Permittees formally request and submit an alternative design. Any such request shall include an engineering report which evaluates the properties, stability and anticipated performance of the alternate cap materials. The report shall be completed and signed by a professional engineer, registered in Delaware.</p>	<p>Permittees will accept the original permit language as stated. It should be noted that the Permittees will certify the lines and grades of the final cap and certify that the enhancements to the cap have been constructed and is properly functioning as intended. Permittees will also certify that the underlying soils are stable after the completion of the cap enhancement project.</p>
20	II.O.2.	<p>Each day that the cap enhancement work is underway, the DSWA shall conduct an inspection to ensure that work meets the requirements of the Camp Dresser & McKee December 1999 <i>Contouring Plan</i>. Weekly, the DSWA shall inspect and document the effectiveness of sediment and erosion controls, particularly silt fences, sediment traps, and stabilization measures; and this inspection shall include an inspection for sediments carried off the Landfill. The DSWA shall document the observations and deficiencies found during these inspections using a form acceptable to the Department and shall correct all deficiencies as needed. The DSWA shall report and maintain records of these inspections in accordance with Sections IV.C.2, IV.C.7 and V.A.6 of this permit.</p>	<p>1) DNREC is willing to change the frequency from "daily" to "monthly" during a permit modification. 2) DNREC is willing to change the permit language to "Each day that the cap enhancement work is underway, the DSWA shall conduct an inspection to ensure that work meets the requirements of the Camp Dresser & McKee December 1999 <i>Contouring Plan</i>. Weekly, in accordance with the requirements of the Sediment and Stormwater Plan Approval 2001-0006, Rev. 4, the DSWA shall inspect and document the effectiveness of sediment and erosion controls, particularly silt fences, sediment traps, and stabilization measures; and this inspection shall include an inspection for sediments carried off the Landfill. The DSWA shall document the observations and deficiencies found during these inspections using a form acceptable to the Department and shall correct all deficiencies as needed. The DSWA shall maintain all records and report these inspections in the final certification report." The Permittees would further revise this statement to replace "DSWA" with "Permittees".</p>

<u>Comment Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
21	<p>Permittees may use stabilized sludge material as part of the Cap Enhancement Project under the following conditions: a. Stabilized sludge material must have been produced in accordance with a Beneficial Use Determination issued by the Department's Solid & Hazardous Waste Management Branch. b. The stabilized sludge material must be distributed and used in accordance with a valid permit for the Authorization to Conduct a Distribution and Marketing Program for the Utilization of Sludge of Sludge Products issued by the Department (Permit Number DM 0009/95C as of the issuance of this post closure care permit). c. The stabilized sludge material shall be stored, applied, and stabilized in a manner that ensures that the material remains on the landfill. d. Under no circumstances shall the quantity of stabilized sludge delivered to the Landfill exceed 250,000 tons per year. e. The stabilized sludge material shall not contribute to off-site odors.</p> <p>f. Stabilized sludge material shall not be used as part of the final cover section (reference Camp Dresser & McKee December 1999 Contouring Plan, drawing C-12). g. VFL continues to meet all of their commitments as agreed in the Interim Agreement, Section 1.B. h. Stabilized biosolids distributed by VFL and used at the Landfill shall be produced, formulated, tested, transported, and records kept and reported in accordance with the Notice of Conciliation and Order No. 2008-W-033. The Department agrees to notify the Permittees in writing when it has made a determination that VFL has failed to produce, formulate, test, transport, and keep/report records in accordance with the Notice of Conciliation.</p>	<p>DNREC proposed to change section II.O.5. To read as follows: Permittees may use Department approved stabilized sludge material produced by VFL Technology Corporation (VFL) as part of the Cap Enhancement Project under the following conditions: a. Permittees shall stop each load of material entering the landfill and shall not allow the material to be dumped unless the load is accompanied by a signed certification from VFL stating that the material has been produced for use at the landfill in accordance with Beneficial Use Determination #7 issued by the Department's Solid & Hazardous Waste Management Branch. b. Permittees shall stop each load of material entering the landfill and shall not allow the material to be dumped unless the load is accompanied by a signed certification from VFL stating that the material meets the requirements of the distribution and marketing permit issued by the Department (Authorization to Conduct a Distribution and Marketing Program for the Utilization of Sludge or Sludge Products). c. Permittees shall monitor and record quantities of stabilized sludge material delivered to the Landfill and shall not allow the quantity of stabilized sludge material delivered to the landfill to exceed 250,000 tons per year. d. The Permittees shall ensure that during the placement and grading of the stabilized sludge, care is taken to minimize the conditions that may result in odors, erosion, and/or ponding. e. Permittees shall not allow stabilized sludge material to be used as part of the final cover section (reference Camp Dresser & McKee December 1999 Contouring Plan, drawing C-12). f. Permittees shall retain or have access to copies of weight tickets for each individual truck hauling material to be used for cap enhancement and provide them upon request to the Department. g. Permittees shall report daily or shall require VFL to report daily to the Department the following: (1) The number of trucks delivering stabilized sludge to the landfill (2) The tonnage of stabilized sludge delivered to the landfill (3) The type and percentage of the approved materials used to create stabilized sludge compiled on a daily basis (4) The locations and dimensions (height, width, and depth measurements) of where stabilized sludge is placed at the landfill.</p>
22	<p>VFL continues to meet all of their commitments as agreed in the Interim Agreement, Section I.B.</p>	<p>Item Was Deleted With DNREC's Revised Language</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
23	II.O.6.	<p>The Delaware Solid Waste Authority shall oversee the Cap Enhancement Project per the Camp Dresser & McKee December 1999 Contouring Plan. Within 60 days after the completion of all construction work for the project, DSWA shall certify whether or not the construction was completed in accordance with that plan and any approved changes or additions. The Cap Enhancement Project will be considered completed only after the Department's Soil & Hazardous Waste Management Branch has accepted the DSWA's certification as complete. The certification shall include: 1. A current topographical map to include property boundaries, limits of waste, stormwater control structures and stormwater flow directions. b. A site drawing showing property boundaries, limits of waste, and the location of all wells, monitoring points, pump stations, sediment basins, and flares. c. A summary of the types and amounts of construction materials used. d. An engineer's assessment of the final cover and whether or not it meets the design and intent of the Camp Dresser & McKee December 1999 Contouring Plan including any changes approved by the Department. The assessment shall include recommendations for additional work if needed.</p>	<p>Permittees will accept the original permit language as stated with the exception of modifying the date from within 60 days to within 120 days. It should be noted that the Permittees will certify the lines and grades of the final cap and certify that the enhancements to the cap have been constructed and is properly functioning as intended. Permittees will also certify that the underlying soils are stable after the completion of the cap enhancement project.</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
4/28/2009 24	III. A. 2.	<p>Additionally, semiannually during the Cap Enhancement Project and for one year following the completion of that project, the Permittee shall collect stormwater discharging from the Southwestern and Southeastern Basins for PPL Table I analysis. The Permittees shall collect the samples during the first 30 minutes of the discharge and only after 72 hours of dry weather has occurred. The Permittees shall estimate the flow at the discharge point at the time the sample is taken and shall record odor and color. The Permittees shall record the extent of land disturbance on the Landfill at the time of the sampling event, and report that along with the sampling results in accordance with the reporting requirements specified in conditions IV.D. and IV.E. of this permit.</p>	<p>Permittees request to change the permit language to "Additionally, semiannually during the Cap Enhancement Project and for one year following the completion of that project, the Permittee shall collect stormwater discharging from the eastern stormwater management basin for PPL Table 1 analysis. During the normal operating week, the Permittee shall inspect the outfall of the Southwestern Stormwater Management Basin and Eastern Stormwater Management Basins (SW-SMB and E-SMB) at the beginning of the day immediately after a significant precipitation event. If the Permittee determines that discharge is occurring from either outfall, the Permittee shall collect stormwater samples from the outfall by the end of day. If a significant precipitation event begins prior to 12:00 p.m. during the normal working day, the Permittee shall inspect the outfalls of both basins to determine if stormwater discharge is occurring at either location. If the Permittee determines that discharge is occurring from either location, the Permittee shall collect stormwater samples from the outfall by the end of day. If discharge from either basin does not appear to be imminent, the Permittee shall conduct a second inspection of each outfall near the end-of-day. Should discharge be occurring from either outfall, the Permittee shall collect a sample from the outfall where discharge is occurring by 12:00 p.m. the following day. The Permittees shall estimate the flow at the discharge point at the time the sample is taken and shall record odor and color. The Permittees shall record the extent of land disturbance on the Landfill at the time of the sampling event, and report that along with the sampling results in accordance with the reporting requirements specified in conditions IV.D. and IV.E. of this permit." DNREC is willing to change this item during a permit modification.</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
25	III.A.2. (PPL Table 1)	III.A.2. PPL Table 1 Minimum Surface Water Monitoring Requirements for PPL	No Change Necessary - Permittees Agree with Permit Language
26	III.B.3. (PPL Table 4)	III.B.3. PPL Table 4 Annual Groundwater Monitoring	No Change Necessary - Permittees Agree with Permit Language
27	III.E.	E.1 At least once per quarter, Permittees shall monitor for landfill gas in all buildings on the site. At the time of each quarterly monitoring, the Permittees shall complete a monitoring form showing weather conditions, equipment calibration, monitoring locations and monitoring results including Lower Explosive Limit (LEL), percentage of methane, oxygen, and balance gas. For each sampling event, the Permittees shall complete a gas migration monitoring form approved by the Department and shall report the monitoring results in accordance with conditions IV.D and IV.E of this permit. E.2 If any buildings are placed into the Landfill site, the Permittees shall ensure that permanent landfill gas monitors are installed and operated continuously and effectively in each new building. Permittees shall place and maintain these alarms in areas most susceptible to methane gas intrusion and collection and shall report alarms in accordance with conditions IV.F of this permit.	DNREC is willing to change the permit condition to include only the buildings located within the fenced area with a permit modification. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification.

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
28	IV.D.1.d.	A discussion of the monitoring results for effluent pumped to the New Castle County wastewater treatment plant from the Landfill during the reporting period. Permittees shall include a discussion of any corrective measures taken or anticipated as a result of noncompliance with the effluent limits imposed by the Wastewater Discharge Permit issued by New Castle County (Wastewater Discharge Permit 85-060 or its replacement).	DNREC is willing to change the permit language to "A discussion of the monitoring results for the leachate pumped to the New Castle County wastewater treatment plant from the Landfill during the reporting period." DNREC is willing to revise the permit language to state the geotechnical monitoring is conducted semi-annually. DNREC is willing to delete this requirement from the annual environmental report, however, this report will need to be submitted separately to DNREC. Since the Permittees suggest that monitoring does not need to take place now, the Permittees can request to delete this permit condition under a permit modification. However, DNREC does not want this item included in the next permit modification. This will be submitted as a separate but concurrent permit modification.
29	IV.D.1.e.	A discussion of the geotechnical monitoring results for the reported year, including an assessment of Landfill stability concerns and any corrective measures taken or anticipated.	The SW Branch is only interested in gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification.
30	IV.D.1.f.	A discussion of the gas migration monitoring done at the Landfill including any corrective measures taken or anticipated.	DNREC agrees that the monitoring forms submitted with the permit application are forms acceptable by the Department.
31	Global Comment	Monitoring Forms	

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
32	II.D.	Access Control. The Permittees shall ensure that access to the Landfill is effectively controlled at all times by the use of gates, security fence, or other means necessary to limit access to the Landfill to authorized persons engaging in activities compatible with this permit.	No Change Necessary - Permittees Agree with Permit Language
33	II.D.3.	During the cap enhancement project, DSWA staff shall control access in accordance with condition II.O.3. of this permit.	DNREC is willing to change the permit language to "During the cap enhancement Project, the Permittees shall control access to the landfill and shall record all deliveries of materials on a form acceptable to the Department. Permittees shall monitor the condition of the truck tarps upon entry to PPLF. Permittees will administer controls as necessary to minimize visible particulate emissions resulting from improperly tarped trucks."
34	II.G.	Stormwater Management, Erosion and Sediment Control. The Permittees shall manage stormwater and maintain stormwater controls to ensure the effectiveness of the capping system and prevent run-off of sediments. Specific requirements include:	DNREC is willing to change the permit language to "The Permittees shall manage stormwater and maintain controls to ensure the effectiveness of the capping system and prevent run-off of sediments according to the Sediment and Stormwater Plan Approval 2001-006, Rev. 4." DNREC will delete "Erosion and Sediment Control" from this permit number.
35	II.G.I.	The Permittees shall take all necessary steps to identify and prevent the discharge of pollutants from the Landfill into surface water, particularly the Delaware River.	DNREC is willing to change the permit language to "The Permittees shall take all reasonable steps to identify and prevent the discharge of pollutants from the Landfill into surface water, particularly the Delaware River."

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
36	II.G.4.	<p>The Permittees shall repair disturbed areas of final cover to prevent erosion as soon as possible. During the growing season, repair shall include replacement of eroded final cover with clean soil capable of supporting the vegetative cover and reseeding of the disturbed areas. If final cover soil is disturbed during the non-growing season, the Permittees shall use temporary measures such as matting or anchored mulch to stabilize the area until vegetation has been established.</p> <p>The Permittees shall properly operate, manage and maintain the DRC Fire Pond and the two stormwater management basins and all stormwater management structures and conveyances. The Permittees shall remove debris or blockages from basins, pipes and channels as soon as practical. The Permittees shall remove sediment from the basins as needed to maintain capacity but shall limit removal operations to 1/3 of the basin area in any 6 month period in order to preserve vegetation.</p>	<p>DNREC is willing to replace "as soon as possible" with "as soon as practical".</p>
37	II.G.5.	<p>The Permittees shall inspect the Surface Water Management System at least once each month. During each inspection, the Permittees shall document observations and problems using a form acceptable to the Department and shall correct all deficiencies as required. Reporting and Recordkeeping shall be done in accordance with Sections IV.C.2, IV.C.7, and V.A.6 of this permit.</p>	<p>Permittees request to delete the "DRC Fire Pond" from this permit condition. The Fire Pond has nothing to do with the landfill. The landfill does not drain to the fire pond. This was included in the permit application in error. DNREC is willing to change this item during a permit modification.</p>
38	II.G.6.		<p>DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period.</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
39	II.H.2.a.	<p>Permittees may, without written approval, disturb the top six inches of the cap (the topsoil) for maintenance, regrading or seeding as long as sediment and erosion controls are properly employed, only clean topsoil is used, and the thickness of the cap and vegetative layer are not diminished upon completion of the work. For the purpose of this permit, clean topsoil means the natural, unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants, and which can perform as the vegetative layer on the landfill cap. Clean topsoil contains no trash, debris, or solid waste and cannot be from a state or federal cleanup site. Analytical testing of clean topsoil is not typically required unless its origins are unknown or there is reason to suspect contaminants may be present which may pose an increased risk to human health or the environment.</p>	<p>No Change Necessary - Permittees Agree with Permit Language</p>
40	II.H.3.	<p>The Permittees shall inspect the capping system at least once each week. During each inspection, the Permittees shall document observations and deficiencies using a form acceptable to the Department and shall correct all deficiencies as needed. Reporting and Recordkeeping shall be done in accordance with Sections IV.C.2, IV.C.7, and V.A.6. of this permit.</p>	<p>1) DNREC is willing to change the frequency from "each week" to "each month" during a permit modification. 2) DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period.</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
41	II.I.2.	The Permittees shall inspect the Landfill, the haul roads and the Landfill's perimeter road and fence line for litter at least once each week. During each inspection, the Permittees shall document observations and deficiencies using a form acceptable to the Department. The Permittees shall report and maintain records of these inspections in accordance with Sections IV.C.7 and V.A.6 of this permit. The Permittees shall conduct all activities at the Landfill in a manner to prevent dust emissions from causing a condition of air pollution (injurious to human, plant, or animal life or unreasonably interfering with the enjoyment of life and property). The Permittees shall inspect for visible dust leaving the Landfill site at least once each day during activities that may cause dust emissions of concern.	1) DNREC is willing to change the frequency from "each week" to "each month" during a permit modification. 2) DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period.
42	II.J.1.	The Permittees shall implement controls to minimize tracking of soils or other materials onto roads leading from the Landfill. During activities that may result in drag-out of material from the Landfill, the Permittees shall inspect Landfill egress points at least once each day to identify if materials are being tracked off the Landfill and to gauge the extent of the problem (e.g. how far is material being tracked). In the event material is being tracked onto paved roads leading from the Landfill, Permittees shall provide for street cleaning of the area on the day the problem is identified. The Permittees shall document the observations and deficiencies found during these inspections using a form acceptable to the Department. The Permittees shall report and maintain records of these inspections in accordance with Sections IV.C.7 and V.A.6 of this permit.	No Change Necessary - Permittees Agree with Permit Language
43	II.J.2.		DNREC is willing to change the permit language to insert "public" prior to roads and streets. DNREC is willing to change "Landfill egress points" to "public roads".
44	II.J.3.		DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period.

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<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
45	II.K.2.	Permittees shall inspect each monitoring well at least once per quarter. The Permittees shall document the observations and deficiencies found during these inspections. The Permittees shall report and maintain records of these inspections in accordance with Sections IV.C.2, IV.C.7 and V.A.6 of this permit.	DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period.
46	II.L.2.	Permittees shall inspect IC-05-01, IC-05-02 and Low-05-001 at least semi-annually. The Permittees shall document the observations and deficiencies found during these inspections using a form acceptable to the Department. The Permittees shall report and maintain records of these inspections in accordance with Sections IV.C.2, IV.C.7 and V.A.6 of this permit. The Permittees shall inspect the Leachate Control System at least once each week and shall document the observations and deficiencies found during these inspections using a form acceptable to the Department. In the event that the alarm system is not operating, Permittees shall inspect the affected pump or lift stations daily. The Permittees shall report and maintain records of these inspections in accordance with Sections IV.C.2, IV.C.7 and V.A.6 of this permit.	DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period.
47	II.M.4.		1) DNREC is willing to change the frequency from "each week" to "each month" during a permit modification. 2) DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period.

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
48	II.N.1.	The Permittees shall maintain the Landfill Gas Collection and Solar Flare System shown in Appendix 10 of the Permit Application, <i>Post Closure Care Plan</i> , Exhibit 12, Attachment 2 and shall operate the system in accordance with a permit from the Department's Air Quality Management Section. The Permittees shall implement controls to protect the gas wells, gas transport lines and gas flares from damage from site activities.	The SW Branch is only interested in gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification.
49	II.N.2.	The Permittees shall inspect the gas wells and flares at least once each month. The Permittees shall document the observations and deficiencies found during these inspections using a form acceptable to the Department. The Permittees shall report and maintain records of these inspections in accordance with Sections IV.C.2, IV.C.7 and V.A.6 of this permit.	The SW Branch is only interested in gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification.
50	II.O.3.	During the Cap Enhancement Project, the Delaware Solid Waste Authority shall control access to the Landfill and shall record all deliveries of materials on a form acceptable to the Department. The DSWA shall not allow the entry of trucks whose loads have not been adequately covered to prevent visible particulate emissions. The DSWA shall report and maintain a record of these deliveries in accordance with Sections IV.C.8, IV.C.9, and V.A.6 of this permit.	DNREC is willing to change the permit language to "Permittees shall monitor the condition of the truck tarps upon entry to PPLF. Permittees will administer controls as necessary to minimize visible particulate emissions resulting from improperly tarped trucks."

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
51	II.O.6.d.	An engineer's assessment of the final cover and whether or not it meets the design and intent of the Camp Dresser & McKee December 1999 <i>Contouring Plan</i> including any changes approved by the Department. The assessment shall include recommendations for additional work is needed.	Permittees will accept the original permit language as stated. It should be noted that the Permittees will certify the lines and grades of the final cap and certify that the enhancements to the cap have been constructed and is properly functioning as intended. Permittees will also certify that the underlying soils are stable after the completion of the cap enhancement project.

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
4/28/2009 52	III.A.2.	<p>Additionally semi-annually during the Cap Enhancement Project, and for 1 year after completion of the project, the Permittee shall collect stormwater discharging from the Southwestern and Southeastern Basins for PPL Table 1 Analysis. The Permittees shall collect samples during the first 30 minutes of discharge, and only after 72-hours of dry weather has occurred. The Permittees shall estimate the flow at the discharge point at the time the sample was taken, and shall record the odor and color. The Permittees shall record the extent of land disturbance on the Landfill at the time of the sampling event and record along with the sample results in accordance with the reporting requirements specified under Conditions IV.D and IV.E. of this Permit.</p>	<p>Permittees request to revise the permit language to "Additionally semi-annually during the Cap Enhancement Project, and for 1 year after completion of the project, the Permittee shall collect stormwater discharging from the Eastern Stormwater Management Basin for PPL Table 1 Analysis. During the normal operating week, the Permittee shall inspect the outfall of the Southwestern Stormwater Management Basin and the Eastern Stormwater Management Basins (SW-SMB and E-SMB) at the beginning of the day immediately after a significant precipitation event. If the Permittee determines that discharge is occurring from either outfall, the Permittee shall collect stormwater samples from the outfall by the end of day. If a significant precipitation event begins prior to 12:00 p.m. during the normal working day, the Permittee shall inspect the outfalls of both basins to determine if stormwater discharge is occurring at either location. If the Permittee determines that discharge is occurring from either location, the Permittee shall collect stormwater samples from the outfall by the end of day. If discharge from either basin does not appear to be imminent, the Permittee shall conduct a second inspection of each outfall near the end-of-day. Should discharge be occurring from either outfall, the Permittee shall collect a sample from the outfall where discharge is occurring by 12:00 p.m. the following day. The Permittees shall estimate the flow at the discharge point at the time the sample was taken, and shall record the odor and color. The Permittees shall record the extent of land disturbance on the Landfill at the time of the sampling event and record along with the sample results in accordance with the reporting requirements specified under Conditions IV.D and IV.E. of this Permit." DNRE is willing to change this item during a permit modification.</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
53	III.C.2.b. (PPL Table 6)	III.C.2.b. PPL Table 6 Leachate Supplemental Parameters	Permittees request to delete COD, TOC, and Nitrate from PPL Table 6 and add them to PPLF Table 5. DNREC is willing to change this permit condition.
54	III.C.2.	The Permittees shall monitor leachate in accordance with the Leachate Monitoring section of the Pigeon Point Landfill Monitoring Program 2006, dated March 27, 2006 and the conditions of this permit. Permittees shall sample leachate at the DRP Pump Station (DRPPS) the North West Lift Station (NWLS) and the West Leachate Collection Manhole (WLCMH) in accordance with PPL Tables 5, and 6.	Permittees request that all references be deleted regarding the North West Lift Station (NWLS) and the West Leachate Collection Manhole (WLCMH). Permittees should only sample the one pump station that leaves the site, this is the DRP Pump Station (DRPPS). DNREC is willing to change this item during a permit modification.
55	III.C.2.a.	Monthly, Permittees shall sample the DRPPS, NWLS, and WLCMH and analyze for parameters specified in Table 5.	Permittees request that all references be deleted regarding the North West Lift Station (NWLS) and the West Leachate Collection Manhole (WLCMH). Permittees should only sample the one pump station that leaves the site, this is the DRP Pump Station (DRPPS). DNREC is willing to change this item during a permit modification.

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
56	III.C.2.b.	Semiannually during March and September, Permittees shall sample the DRPPS, NWLS, and WLCMH and analyze for the parameters in Table 6.	Permittees request that all references be deleted regarding the North West Lift Station (NWLS) and the West Leachate Collection Manhole (WLCMH). Permittees should only sample the one pump station that leaves the site, this is the DRP Pump Station (DRPPS). DNREC is willing to change this item during a permit modification.
57	III.C.2.c. (PPL Table 7)	III.C.2.c. PPL Table 7 Annual Leachate Monitoring Geotechnical Monitoring: The Permittees shall conduct a geotechnical monitoring program under the direction of a Professional Engineer registered in the State of Delaware who specializes in geotechnical engineering. The Permittees shall monitor the structural integrity and stability of the Landfill and shall take all necessary measures to identify and preclude unintended slope movement. Semiannually during March and September, the Permittees shall monitor inclinometers IC-05-01 and IC-05-02 and leachate observation well LOW-05-001 and shall report the results of the monitoring in accordance with the requirements of conditions IV.D. and IV.E. of this permit.	Permittees request to delete COD, TOC, and Nitrate from PPL Table 6 and add them to PPLF Table 5. DNREC is willing to change this permit condition.
58	III.F.		1) DNREC is willing to revise the permit language to state the monitoring is conducted semi-annually. 2) DNREC is willing to delete this requirement from the annual environmental report, however, this report will need to be submitted separately to DNREC.

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
59	IV.B.	<p>Financial Assurance: No later than January 31st of each year, the Permittees shall update the cost estimates for post closure of the closed Landfill and shall provide financial assurance for those remaining costs in accordance with Section 4.1.11 of the DRGSW. The Permittees shall provide a detailed listing of all projected costs used to estimate the post-closure care costs for the closed Pigeon Point Landfill. The Permittees shall adjust all cost estimates carried over from previous years for inflation.</p> <p>A post-closure care narrative addressing status of the site. The narrative shall include pending ownership changes described in Permit Application Supplement 2 as well as the status of the Use Agreement cited in Permit Application Supplement 1. Permittees shall also provide an update as to their progress establishing the Environmental Covenant required by the Secretary's Order 2008-A-0036.</p>	<p>DNREC is willing to revise the permit language to "Financial Assurance: No later than January 31st of each year, the Permittees shall update the cost estimates for post closure period, as defined in Section I.D.4. of this permit, of the closed Landfill and shall provide financial assurance for those remaining costs in accordance with Section 4.1.11 of the DRGSW. The Permittees shall provide a detailed listing of all projected costs used to estimate the post-closure care costs for the closed Pigeon Point Landfill. The Permittees shall adjust all cost estimates carried over from previous years for inflation."</p>
60	IV.C.1.		<p>The permit shall reference the Environmental Covenant with language agreed to by DSWA and DNREC. See Attached</p>
61	IV.C.2.	<p>A summary of all maintenance and repair activities involving landfill control systems, landfill cap, monitoring systems, and access controls, as well as a description of any other construction activities on the site.</p>	<p>DNREC is willing to change the permit language to "A listing and description of all construction or corrective work either pending completion or conducted on the site in accordance with approved plans or to achieve compliance with this permit."</p>
62	IV.C.7.	<p>Copies of all daily, weekly and monthly inspection forms completed in accordance with the conditions of this permit (to be provided on electronic storage media only).</p>	<p>DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period.</p>

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
63	IV.C.8.	Copies of the <i>Cap Enhancement Project, Daily Activity Report</i> completed in accordance with Section II.O.3 of this permit (to be provided on electronic storage media only).	DNREC is willing to revise this item to not require submission in the annual report. However, the Permittees will need to have the records available for the entire post closure care period. Permittees shall submit all these items with the final certification report.
64	IV.D.1.g.	Recommendations for future monitoring, maintenance and modifications needs for the groundwater monitoring wells, geotechnical instrumentation, gas collection system, the surface water/stormwater monitoring system, and the leachate collection system.	1) The SW Branch is only interested in gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification. 2) DNREC is willing to revise the permit language to state the monitoring is conducted semi-annually. DNREC is willing to delete this requirement from the annual environmental report, however, this report will need to be submitted separately to DNREC.
65	IV.D.2.d.	Tabulation of surface water flow rate, stormwater observations (odor, color), and quality data including field parameters.	No Change Necessary - Permittees Agree With Permit Language

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
66	IV.D.2.i.	Tabulation of gas migration monitoring results.	The SW Branch is only interested in gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification.
67	IV.D.2.j.	Tabulation of geotechnical monitoring results.	DNREC is willing to revise the permit language to state the monitoring is conducted semi-annually. DNREC is willing to delete this requirement from the annual environmental report, however, this report will need to be submitted separately to DNREC.
68	IV.E.1.	Periodic Environmental Monitoring Reports: Within 60 days after the quarterly sampling events, Permittees shall submit the results of periodic monitoring, including groundwater, surface water, leachate, geotechnical, and gas migration.	1) The SW Branch is only interested in gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification. 2) DNREC is willing to revise the permit language to state that the geotechnical monitoring is conducted semi-annually. DNREC is willing to delete this requirement from the annual environmental report, however, this report will need to be submitted separately to DNREC.

<u>Comment Number</u>	<u>Permit Section Number</u>	<u>Permit Condition</u>	<u>Resolution</u>
69	IV.E.2.	Upon discovery, Permittees shall notify the Department concerning damage to geotechnical monitoring instruments, leachate collection systems, groundwater monitoring wells, or stormwater control systems.	No Change Necessary - Permittees Agree with Permit Language
70	IV.F.1.d.	Gas levels of 25% LEL or greater detected within any structures at the Landfill.	The SW Branch is only interested in gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification.
71	V.A.6. VI.1. (DRGSW Table 1)	Records of all periodic inspections of the Landfill required by this permit to include inspections of the leachate and gas systems, leachate seeps, landfill gas migration.	The SW Branch is only interested in gas migration. DNREC is willing to take out the reference to the flares and the wells, however, if there is a gas migration problem the Permittees may need to add additional controls. Once the Permittees can demonstrate that gas migration is non-existent this item can be deleted from the permit with a permit modification.
72	DRGSW Table 1	DRGSW Table 1 Ground Water Supplemental Parameters	No Change Necessary - Permittees Agree with Permit Language

DRAFT ENVIRONMENTAL COVENANT

This Environmental Covenant is entered into by the Delaware Solid Waste Authority (DSWA) ("Owner") and the Delaware Department of Natural Resources and Environmental Control ("DNREC") pursuant to 7 Del. C. Chapter 79, Subchapter II, Uniform Environmental Covenants Act, for the purpose of subjecting the Property to the activity and use limitations as set forth herein.

WITNESSETH

WHEREAS, the DSWA is the Owner of certain real estate located at 1101 Lambsons Lane in New Castle County, Delaware, as described below ("Property"); and

WHEREAS, it is intended that certain activity and use limitations be placed on the Property; and

WHEREAS, Owner is willing to establish this Environmental Covenant on the Property.

Now therefore, Owner DSWA and DNREC agree to the following:

1. Environmental Covenant. This instrument is an environmental covenant developed and executed pursuant to 7 Del. C. Chapter 79, Subchapter II, Uniform Environmental Covenants Act.
2. Property. This Environmental Covenant applies to the fenced in area on the following New Castle County tax parcel number(s); 1001100033, 1001100039, 1001100040, 1001100041, located at 1101 Lambsons Lane in New Castle County, Delaware, and more particularly described in Exhibit A and Exhibit B [*drawing to show fence line*] attached hereto and hereby incorporated herein by reference ("Property"). Said parcels comprise part of the Pigeon Point Landfill, namely that part owned by DSWA.
3. Owner. DSWA ("Owner"), which is located at 1128 S. Bradford Street, Dover, DE 19904, is the owner of the above identified parcels, which comprise the Property.
4. Holder. DNREC is the Holder of this Environmental Covenant.
5. Activity and Use Limitations. Owner hereby agrees to comply with the following activity and use limitations:
 - [a.] Use Restriction. Use of the Property shall be restricted solely to those non-residential type uses permitted within Commercial, Manufacturing, Industrial Districts or Recreational Uses, respectively, as such district types described and permitted, respectively, pursuant to the New Castle County Code in effect of the date of this Declaration;

[b.] Limitation of Groundwater Withdrawal. No potable groundwater wells shall be installed, and no potable groundwater shall be withdrawn from any well, on the Property without the prior written approval of DNREC. There shall be no digging, drilling, excavating, grading, constructing, earth moving, or any other land disturbing activities at depths greater than 2 feet within the footprint of the Property without the prior written approval of DNREC;

6. Running with the Land. This Environmental Covenant shall be binding upon the Owner and all assigns and successors in interest, including any Transferee, and shall run with the land, pursuant to 7 Del. C. Section 7910(a), subject to amendment or termination as set forth herein. The term "Transferee," as used in this Environmental Covenant, shall mean any future owner of any interest in the Property or any portion thereof, including, but not limited to, owners of an interest in fee simple, mortgagees, easement holders, and/or lessees.

7. Notice upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant.

8. Compliance Enforcement. Compliance with this Environmental Covenant may be enforced pursuant to 7 Del. C. Section 7916. Failure to timely enforce compliance with this Environmental Covenant or the use limitations contained herein by any party shall not bar subsequent enforcement by such party and shall not be deemed a waiver of the party's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict the Secretary of DNREC from exercising any authority under applicable law.

9. Rights of Access. Owner hereby grants to DNREC, its agents, contractors, and employees the right of access to the Property for implementation or enforcement of this Environmental Covenant.

10. Amendment or Termination. This Environmental Covenant may be amended or terminated by consent of all of the following: the Owner or a Transferee; and DNREC, pursuant to 7 Del. C. Section 7915 and other applicable law.

11. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

12. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Delaware.

13. Recordation. Within thirty (30) days after the date of the final required signature upon this Environmental Covenant, Owner shall file this Environmental Covenant for recording, in the same manner as a deed to the Property, with the New Castle County Recorder of Deeds Office. This environmental covenant must be indexed in the grantor's

index in the name of the Owner, and in the grantee's index in the name of the Holder, DNREC.

14. Effective Date. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the New Castle County Recorder of Deeds.

15. Distribution of Environmental Covenant. The Owner shall distribute a file-and date-stamped copy of the recorded Environmental Covenant to: DNREC.

16. Notice. Any document or communication required by this Environmental Covenant shall be submitted to DNREC.

The undersigned representatives of the Owner and certifies that they are authorized to execute this Environmental Covenant.

IT IS SO AGREED:

Delaware Solid Waste Authority

Signature of Owner

Printed Name and Title

Date

State of _____)

County of _____)

ss:

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of _____, who acknowledged to me that he/she did execute the foregoing instrument on behalf of _____.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this _____ day of _____, 2016.

Notary Public

Delaware Department of Natural Resources and Environmental Control

Signature

Printed Name and Title

Date

State of _____)

County of _____)

ss:

Before me, a notary public, in and for said county and state, personally appeared _____, a duly authorized representative of _____, who acknowledged to me that he/she did execute the foregoing instrument on behalf of _____.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this _____ day of _____, 2016.

Notary Public

January 1, 2016

